



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,343	02/25/2004	Michael Tepoe Nash	M. NASH	3834

32885 7590 09/01/2006

STITES & HARBISON PLLC
424 CHURCH STREET
SUITE 1800
NASHVILLE, TN 37219-2376

EXAMINER

RUSSELL, CHRISTINA MARIE

ART UNIT PAPER NUMBER

2837

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,343

Applicant(s)

NASH, MICHAEL TEPOE

Examiner

Christina Russell

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the US patent to Breitweiser, Jr. et al. (5,408,914), in view of the US patent application publication to Sitrick et al. ((US 2003/0110926).

3. In terms of claim 5, Breitweiser et al. teaches of a stringed musical instrument, as seen in Figure 2, which comprises a body, a neck, and a plurality of strings positioned lengthwise about the neck. Breitweiser et al. also teaches a computer or microprocessor mounted in the body of the instrument, being visible to the user, and displaying information and instructions to aid the user in playing the instrument (see Figure 6, column 2, lines 44-56, column 3, lines 3-17 and 63-68, column 4, lines 23-27 and 42-55, and column 5, lines 34-60). Breitweiser et al. does not however teach specifically of the unit comprising an operating system. Sitrick et al. teaches of an operating system, which allows the user to create or input, store in memory, recall, or retrieve from memory, and manage, or edit, music related and as will be seen in claim 12, non-music related data (see page 3, end of paragraph [0045] and paragraph [0046], page 4,

paragraph [0052], page 6, paragraph [0065], page 7, paragraph [0069], page 8, paragraph [0080], page 9, paragraph [0087], page 12, paragraph [0107], and page 13, paragraph [0124]). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention to use the standard computer and imaging techniques presented by Sitrick et al. in the computer unit positioned in the body of the stringed instrument shown by Breitweiser et al. The microprocessor taught by Sitrick et al. allows for construction to be made on a chip to fit in a desired location, such as the body of an instrument, and further teaches the ability to provide this chip with custom logic to fit the users preferences.

4. As for claims 6 and 7, dependent upon claim 5, Breitweiser et al. and Sitrick et al. teach all the above claimed elements of claim 5, and Breitweiser further teaches the stringed musical instrument as a guitar, or a variation there of (see references from claim 5, and column 6, lines 46-51). Therefore, obvious stands for the reasons stated above.

5. As for claim 8, Breitweiser et al. teaches his microprocessor, or computer unit integrated into the body of the instrument as can be seen in the references of claim 5 (see also column 4, lines 1-6). Therefore, obviousness stands.

6. As for claims 9-14, Breitweiser et al. and Sitrick et al. teach all the above claimed elements of claim 5, which claims 9- 14 depend on, and Sitrick et al. further teaches of a standard microprocessor which can be placed in any computer system, which comprises component hardware and supporting software, in a handheld embodiment

(see paragraphs [0062] and [0065]). Therefore, obviousness stands for the reasons stated in claim 5.

7. More specifically, as seen in claims 9 and 10, Sitrick et al. teaches of menu driven software as being part of the standard computer components, and also of the ability to provide a touch sensitive display screen (see paragraphs [0012], [0045], [0046], and [0106]).

8. As for claim 11, Sitrick et al. teaches of the compatibility of his microprocessor with a DVD player, or digital video disc player (see paragraph [0060]).

9. As for claim 12, Sitrick et al. teaches the use of PDA software (see paragraph [0065]), which is commercially known to have custom application software, which allows the user to store and display contact names and addresses in an electronic address book format.

10. As for claim 13, Sitrick et al. teaches the addition of a USB port to the computer unit to give the user access to downloaded material, which is also considered well known in the art of computers (see paragraphs [0045] and [0063]).

11. As for claim 14, Sitrick et al. further teaches a display, as seen in the Breitweiser reference, which has the ability to display song scores or tablature (see paragraphs [0012], [0046], [0048], and [0106]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina Russell whose telephone number is 571-272-4350. The examiner can normally be reached on Mon-Fri, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR
8/25/2006


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER